

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5073 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

JAN UMANG CO OP HOU SOCIETY

Versus

STATE OF GUJARAT

Appearance:

MR PRASHANT G DESAI for Petitioners

Ms Manisha Lavkumar AGP for Respondent No. 1, 2

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 28/07/1999

ORAL JUDGEMENT

Heard Mr Purohit for the petitioner and Ms Manisha Lavkumar, learned AGP, for the respondents.

2 In this petition the petitioners have challenged the notification dated 12.5.1988 (Annexure-A) issued by the competent authority under section 10(3) of the Urban Land (Ceiling & Regulation) Act, 1976, and also the

notice dated 19.6.1990 (Annexure-G) issued under section 11 of the Act. While admitting the petition on 13.7.1980 this Court passed the following order:-

"Rule. By way of ad interim relief the respondents are directed not to take over possession from the petitioner on the condition that the petitioner-society or its members do not create any charge or encumbrance on the property and do not part with the possession."

At the hearing of this petition, the learned AGP sought leave to produce the written instructions contained in the letter dated 27.7.1999 from Shri D.G.Jalawadiya, Additional Collector, Ahmedabad, informing the Government Pleader that earlier the proceedings were taken to the stage under section 10(5) of the Act and notice for compensation was also issued to the petitioners. However, the petitioners had preferred appeal before the Urban Land Tribunal and the said appeal was allowed and the matter was remanded to the competent authority to inquire into the veracity of the averments made on behalf of the petitioner that the total area of the land was reduced on account of introduction of the Town Planning Scheme in the area and a copy of the redistribution statement issued by the Town Planning Officer was produced before the Tribunal. The Tribunal had also recorded in the said order that during the pendency of the appeal there was ad interim stay.

A copy of the aforesaid letter is taken on record. The learned AGP states that in view of the ad interim stay and in view of the fact that the Tribunal allowed the appeal and remanded the matter to the competent authority, the possession is with the petitioners. The said statement is being made by her as per the instructions of Shri D.G.Jalawadiya.

2 The Urban Land (Ceiling & Regulation) Act, 1976 has been repealed by the Urban Land (Ceiling & Regulation) Repeal Act, 1999, as adopted by the Gujarat State Legislative Assembly as per the resolution dated 30th March 1999, passed under Article 252(2) of the Constitution. In view of the provisions of the aforesaid Repeal Act, 1999, the orders impugned in the present petition do not survive and all the proceedings under the Urban Land (Ceiling & Regulation) Act, 1976 in respect of the land in question as well as the present petition have abated.

3 The petition is accordingly disposed of as having abated. There shall be no order as to costs.

(M S SHAH, J.)

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